

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JUSTIN BLACKSHERE,

Petitioner,

v.

DUNCAN MACLAREN,

Respondent.

Civil No. 2:10-CV-12555

HONORABLE NANCY G. EDMUNDS
UNITED STATES DISTRICT JUDGE

**ORDER DIRECTING THE CLERK OF THE COURT TO TRANSFER THE MOTION TO
PROCEED IN FORMA PAUPERIS ON APPEAL TO THE UNITED STATES COURT
OF APPEALS FOR THE SIXTH CIRCUIT**

On June 25, 2015, the Court denied the petition for writ of habeas corpus filed by petitioner and declined to issue a certificate of appealability or leave to appeal *in forma pauperis*.

On July 31, 2015, petitioner filed a notice of appeal with the United States Court of Appeals for the Sixth Circuit. On the same day, petitioner filed an application for leave to appeal *in forma pauperis* with this Court, which appears to be a request to be permitted to proceed *in forma pauperis* on appeal. For the reasons stated below, the Court orders that the motion for leave to appeal *in forma pauperis* be transferred to the United States Court of Appeals for the Sixth Circuit.

A notice of appeal generally “confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal.” *Marrese v. American Academy of Orthopaedic Surgeons*, 470 U.S. 373, 379 (1985)(citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)(per curiam)); *Workman v.*

Tate, 958 F. 2d 164, 167 (6th Cir. 1992). Petitioner's notice of appeal divests this Court of jurisdiction to consider his motion that he be permitted to proceed *in forma pauperis* in the Sixth Circuit Court of Appeals. See *Johnson v. Woods*, No. 5:12–11632; 2013 WL 557271, * 2 (E.D. Mich. February 13, 2013); *Glick v. U.S. Civil Service Com'n*, 567 F. Supp. 1483, 1490 (N.D. Ill. 1983); *Brinton v. Gaffney*, 560 F. Supp. 28, 29-30 (E.D. Pa. 1983). Because jurisdiction of this action was transferred from the district court to the Sixth Circuit Court of Appeals upon the filing of the notice of appeal, petitioner's motion to proceed *in forma pauperis* on appeal would be more appropriately addressed to the Sixth Circuit. In the interests of justice, this Court can order that the application to proceed *in forma pauperis* be transferred to the Sixth Circuit for that court's consideration. See *Baker v. Perry*, No. 2:12–10424; 2012 WL 6097323, * 2 (E.D. Mich. December 6, 2012).

IT IS HEREBY ORDERED that the Clerk of the Court transfer Petitioner's "Application to Proceed Without Prepaying Fees or Costs on Appeal" [Dkt. # 27] to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631.

s/ Nancy G. Edmunds
HON. NANCY G. EDMUNDS
UNITED STATES DISTRICT JUDGE

Dated: August 7, 2015